



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3503 FAX (603) 271-5171



G. Thomas Jensen
32 St. Casimirs Ave.
Brockton, MA 02402-1828

RE: 70 Deer Cove Road, Ossipee

**ADMINISTRATIVE ORDER
WD 01-13**

February 23, 2001

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to G. Thomas Jensen, pursuant to RSA 482-A:6.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire having its principal offices at 6 Hazen Drive, Concord, NH
2. G. Thomas Jensen is an individual having a mailing address of 32 St. Casimirs Avenue, Brockton, MA 02402-1828.

C. STATEMENT OF FACTS AND LAW

1. G. Thomas Jensen is the owner of certain property on Ossipee Lake located at 70 Deer Cove Road in Center Ossipee, NH, more particularly identified on Town of Ossipee tax maps as Tax Map 35, Lot 49 (the "Property").
2. In 1996, following receipt of complaints regarding several docks located along the Deer Cove shorefront of Ossipee Lake in Ossipee, DES personnel reviewed documentation regarding the status of structures along Deer Cove. Specifically, DES evaluated whether certain docks in Deer Cove, most of which were seasonal, met the criteria for grandfathered status under RSA 482-A.
3. By letter dated March 14, 1996, DES advised the Deer Cove Shorefront Owners Association ("DCSOA") of its findings regarding the grandfathered status of the Deer Cove docks. Among the docks referenced was a seasonal dock owned by Mr. Jensen, identified in the March 14, 1996 letter as Dock #10. In that letter, DES stated that the Jensen seasonal dock "is new or has been moved." DES concluded that Mr. Jensen's seasonal dock was not a grandfathered structure. A copy of the March 14, 1996 letter was sent to Mr. Jensen.
4. On May 30, 1997, DES issued a Letter of Deficiency to Mr. Jensen alleging that he reinstalled an illegal seasonal dock in waters of the state without a permit from DES. The LOD included the following findings:

The Jensen dock lost any grandfathered status it may have by changing the location of an existing dock. Interviews with several of the current owners and abutters in the area reveal that the Jensen dock changed in location from its recently installed location.

Mr. Jensen's dock lost any grandfathered status it may have by combining the historical dock with the "Marshall" dock.

Interviews of several current and past property owners in the area reveals *[sic]* that any historical dock that existed was no longer than 30' so the Jensen dock has changed in dimensions. After being notified of the state wetlands law, and being notified of the [DES's] wetlands investigation, Mr. Jensen reinstalled his illegal dock without a permit and is subject to an *[sic]* enforcement powers the [DES] possesses.

5. In its May 30, 1997 Letter of Deficiency, DES requested that Mr. Jensen permanently remove the seasonal dock from any surface water, wetland or bank thereof.
6. By letter dated June 23, 1997, DES advised the DCSOA that DES had completed a review of additional documents and information regarding the status of docks within Deer Cove. In its June 23, 1997 letter, DES reiterated that Mr. Jensen's seasonal dock was not a grandfathered structure. A copy of the June 23, 1997 letter was sent to Mr. Jensen.
7. On August 25, 2000, DES personnel inspected the Property and shorefront on Ossipee Lake associated with the Property. The inspection revealed the following deficiencies:
 - a. The Jensen dock had been reinstalled in waters of the state without a permit from DES.
 - b. The dock was constructed of four separate sections with the following dimensions: Section 1 starting at the shore had approximate dimensions of 2' x 10'; Sections 2 and 3 (combined) had approximate dimensions of 4' x 16'4"; Section 4 had approximate dimensions of 3' x 20'3".
 - c. The entire length of the dock was approximately 46'7".
8. RSA 482-A:3, I states that "[n]o person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from [DES]."
9. Ossipee Lake is a water of the state as defined in RSA 482-A:4, II.
10. Wt 101.78 defines structure to include "something installed, erected or constructed. Structure(s) include, but are not limited to, the following: fence, dock, breakwater, post, pile, building, bridge, culvert and wall."

D. DETERMINATION OF VIOLATIONS

1. G. Thomas Jensen violated RSA 482-A:3, I, by reinstalling a seasonal dock in waters of the State without a permit from DES after receiving notice from DES that the seasonal dock was not a grandfathered structure.

E. ORDER

Based on the above findings, DES hereby orders G. Thomas Jensen as follows:

Permanently remove the seasonal dock from any surface water, wetland, or bank thereof.

Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Richard W. Head, Compliance Supervisor
DES Water Division, Wetlands Bureau
P.O. Box 95
Concord, NH 03302-0095
Fax: (603) 271-4062
e-mail: rhead@des.state.nh.us

F. APPEAL

Any party aggrieved by this Order may apply for reconsideration with respect to any matter determined in this action within 20 days from the date of the Order. A motion for rehearing must describe in detail each ground for the request. DES may grant a rehearing if, in its opinion, good reason is provided in the motion. Filing an appeal or motion for reconsideration of the Order will not automatically relieve you of your obligation to comply with the Order.

This Order is being recorded in the Carroll County Registry of Deeds so as to run with the land.

Please note that RSA 482-A provides for civil and criminal penalties and administrative fines for violations noted in this Order, as well as for failure to comply with the Order.



COPY

Harry T. Stewart, P.E.
Director, Water Division



COPY

Robert W. Varney
Commissioner

CERTIFIED MAIL: 7099 3400 0002 9771 3966

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen Rule, DES Enforcement Coordinator
Michael J. Walls, DOJ Environmental Protection Bureau
Charles Knox - PIP - DES
Carroll County Registry of Deeds
USEPA, New England
Ossipee Conservation Commission
Ossipee Board of Selectmen
Ossipee Planning Board
Richard W. Head, DES (File #94-478)